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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/044,716	01/11/2002	John Langenfeld	270/070	1276
26259	7590	12/13/2004	EXAMINER	
<b>LICATLA &amp; TYRRELL P.C.</b> 66 E. MAIN STREET MARLTON, NJ 08053				RAWLINGS, STEPHEN L
ART UNIT		PAPER NUMBER		
		1642		

DATE MAILED: 12/13/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

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APPLICATION NO./ CONTROL NO.	FILING DATE	FIRST NAMED INVENTOR / PATENT IN REEXAMINATION	ATTORNEY DOCKET NO.
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EXAMINER

ART UNIT	PAPER
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20041209

DATE MAILED:

**Please find below and/or attached an Office communication concerning this application or proceeding.**

**Commissioner for Patents**

***Notice of Non-Responsive Amendment***

1. The reply filed on November 17, 2004 is not fully responsive to the prior Office Action because of the following omission(s) or matter(s):

In reply to the Office Action mailed October 20, 2004, Applicants elected Group I, claims 2 and 5-10. As set forth in the restriction requirement, the inventions of Group I comprises patentably distinct species of invention, wherein the polypeptide that binds to BMP-2 is selected from the group of polypeptides, or a fragment thereof, consisting of (a) human Noggin (SEQ ID NO: 4), (b) mouse Noggin (SEQ ID NO: 6), (c) Chordin, (d) Cerberus 1 homolog, and (e) Gremlin; see section 8 beginning at page 12 of the Office action mailed October 20, 2004. Accordingly, Applicants were required under 35 USC § 121 to elect a single disclosed species of invention and failed to do so. See 37 CFR 1.111.

Having canceled claims 5, 7-8, and 10, it seems evident that Applicant has directed the claims to the species of invention, wherein said polypeptide that binds to BMP-2 is "noggin", or a fragment thereof. Notably, claims 1, 2, 6, and 9 are still generic; and as noted previously, claims 1 and 14-19 are linking claims. As such, in reply to the Office communication, Applicant is required to elect a single species of invention by specifically identifying whether the claims are directed to human Noggin (SEQ ID NO: 4) or mouse Noggin (SEQ ID NO: 6).

2. Since the above-mentioned reply appears to be *bona fide*, applicant is given **ONE (1) MONTH or THIRTY (30) DAYS** from the mailing date of this notice, whichever is longer, within which to supply the omission or correction in order to avoid abandonment. EXTENSIONS OF THIS TIME PERIOD MAY BE GRANTED UNDER 37 CFR 1.136(a).
3. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Stephen L. Rawlings, Ph.D. whose telephone number is

(571) 272-0836. The examiner can normally be reached on Monday-Friday, 9:00AM-5:30PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jeffrey Siew can be reached on (571) 272-0787. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Stephen L. Rawlings, Ph.D.  
Examiner  
Art Unit 1642

slr  
December 9, 2004